

PUBLIC ACCESS TO BUDGET HEARINGS

General Rules

It is the purpose of the Indiana Open Door Law (“ODL”) to ensure “the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed.” (*I.C. § 5-14-1.5-1*)

Political Subdivisions

As political subdivisions create a budget for a following year, they must notify “taxpayers of:

- (1) the estimated budget;
- (2) the estimated maximum permissible levy;
- (3) the current and proposed tax levies of each fund; and
- (4) the amounts of excessive levy appeals to be requested.” (*See I.C. § 6-1.1-17-3(a)*)

A political subdivision is “a county, township, city, town, separate municipal corporation, special taxing district, or school corporation.” (*I.C. § 6-1.1-1-12*)

The budget notice must “state the time and place at which a public hearing will be held on these items.” (*See I.C. § 6-1.1-17-3(a)*)

- Indiana courts have held that a political subdivision must allow any taxpayer to speak at budget hearings required under *I.C. § 6-1.1-17-3*. *Brademas v. South Bend Cmty. Sch. Corp.*, 783 N.E.2d 745, 750 (Ind. Ct. App. 2003) (citing *State Bd. Of Tax Comm’rs v. State ex rel. City of Indianapolis*, 198 Ind. 343, 353, 153 N.E. 404, 407 (1926)).
- NOTE: The ODL generally does not require an opportunity for public comment at a meeting, but other statutes require public hearings. (*See Opinion of the Public Access Counselor 08-FC-149*)

The political subdivision must publish the notice of the budget hearing twice in a newspaper that meets the qualifications of *I.C. 5-3-1*. (*See I.C. § 6-1.1-17-3(a)*)

- The notices must appear by September 14. The second notice must be published on or by September 21. (*See I.C. § 6-1.1-17-3(a)*)
- The first publication must be at least ten days before the public hearing (*I.C. § 6-1.1-17-3(a)*), and the second must be at least three days before the hearing (*I.C. § 5-3-1-2(j)*)
- The two publications must be at least one week apart. (*I.C. § 5-3-1-2(j)*)
- A notice is valid even if the first publishing does not occur or if the notice has an error, as long as the failure to publish or the error is the newspaper’s fault. (*I.C. § 5-3-1-2(l), (m)*)
- The subdivision shall pay for the publishing of the notice. (*I.C. § 6-1.1-17-3(a)*)

The public hearing required by *I.C. § 6-1.1-17-3* must be completed at least ten days prior to the date when the officers of a political subdivision convene “to fix the budget, tax rate, and tax levy,” unless the subdivision is a consolidated city and county or a second class city. “In a consolidated city and county and in a second class city, that public hearing . . . may be held at any time after introduction of the budget.” (*See I.C. § 6-1.1-17-5(a)*)

County Auditors

By August 1, a county auditor must estimate a political subdivision's assessed valuation. (*See I.C. § 6-1.1-17-1(a)*) Under certain circumstances, a county auditor can modify that estimate, which may require a public hearing before modification. (*See I.C. § 6-1.1-17-1(d)-(g)*) A public hearing is not required if the modification is related to a mathematical error, if the modification adds assessed valuation based on previously omitted property, or if modification would not increase any tax rates. (*See I.C. § 6-1.1-17-1(g)*)

A county auditor must prepare a notice of the tax rates within fifteen days after a county board of tax adjustment approves or modifies the budgets, tax rates, and tax levies or after a county auditor calculates or fixes the tax rate. The county auditor must display the notice at the county courthouse and publish it in two (2) newspapers. (*See I.C. § 6-1.1-17-12; see also I.C. § 6-1.1-17-9(d)*)

Beginning in 2010, county auditors must mail a statement to property taxpayers before September 10.

- The statement must include, among other things, an estimate of the amount of property taxes the person will need to pay to each political subdivision during the following year.
- The statement also must include a notice of a public hearing on the budget. (*I.C. § 6-1.1-17-3(a)*)

Department of Local Government Finance (“DLGF”)

Subject to (*I.C. § 6-1.1-17-16*), the DLGF has authority under certain conditions to “revise, reduce, or increase a political subdivision’s budget by fund, tax rate, or tax levy.”

- Before the department takes any of these actions, it must conduct “a public hearing on the budget, tax rate, and tax levy” if requested by a member of the public.
- The hearing must be “in the county in which the political subdivision is located.”
- The department must publish a notice in a newspaper “of the time and place of the hearing and of the budgets by fund, levies, and tax rates to be considered at the hearing” at least five days before the scheduled hearing. (*See I.C. § 6-1.1-17-16(c)*)

Additional Appropriations/Transfer of Funds

Before the officials of a political subdivision can authorize the spending of more money than the amount in a finalized budget, there must be notice and a public hearing. (*See I.C. § 6-1.1-18-5(a)*)

- The notice must “state the time and place at which a public hearing will be held on the proposal.” (*I.C. § 6-1.1-18-5(a)*)
- The notice must be published once, no less than ten days prior to the hearing. (*See I.C. § 5-3-1-2(b)*)

“Proper officers of a political subdivision may transfer money from one major budget classification to another within a department or office.” The officers do not need to give notice or an opportunity for public comment, but they must make the decision at a public meeting. (*See I.C. § 6-1.1-18-6*)

For more information about the public access laws, visit <http://www.in.gov/pac/>

For more information about the budget process, visit <http://www.in.gov/dlgef/>